

State law clear on secret ballots

PATRICK HENRY ONCE SAID THAT LIBERTY IS NEVER SECURE AS LONG AS GOVERNMENT DOES BUSINESS IN SECRET.

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(Wichita Eagle editorial, by Rhonda Holman) The city of Wichita again has demonstrated a shaky grasp of the Kansas Open Meetings Act, trying to keep secret the two rounds of balloting in the City Council vote choosing Jim Skelton as vice mayor.

Even if Mayor Carl Brewer and council members meant no harm and somehow were unaware that secret ballots aren't allowed under state law, longtime City Attorney Gary Rebenstorf and his staff should know better.

The law is clear that secret ballots cannot be used for binding action. The public must be able to ascertain how the members of their public governing bodies vote.

It was not reassuring to learn that, according to Brewer, council members had several discussions with the law department about the issue before the vote. Or that, as a city news release put it, attorneys required "additional research" to discover the "legal mistake."

What makes this matter worse is that the City Council was tripped up by the secret-ballot provision just two years ago, as it spent two weeks and 21 rounds of balloting to choose Lavonta Williams to succeed Brewer as the District 1 council member.

Then and last week, the city released the information of how each council member voted after The Eagle questioned whether the secrecy violated state law.

The newspaper filed a complaint last week with Attorney General Steve Six and Sedgwick County District Attorney Nola Foulston. But according to the city's Friday news release, "after conversations with the district attorney we have concluded that the self-reporting and the immediate corrective action clear up the concern regarding any violation of the Kansas Open Meetings Act."

Do they really clear up concerns? State law allows each council member to be fined up to \$500 when the council is found to have knowingly violated the law. In 2008, the attorney general required that the Lawrence City Commission atone for an unlawful executive session by having two hours of open-meetings training.

The facts may not support fines or other punishment this time. But before last week, the council had acknowledged violating the Kansas Open Meetings Act

twice since 2003, not counting the 2007 secret balloting. At some point, violations call for more than apologies.

At City Hall and all governing bodies, openness should not be treated as some legal inconvenience to be tolerated but as an essential element of good government.

***Do you have an Open Government experience to share?
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